

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

In re:

WAREHOUSE 86, LLC

Debtor

**CASE NO. 08-03423-EE
Chapter 11**

**RESPONSE OF WAREHOUSE 86, LLC TO OBJECTION OF
KEITH MARTIN MACK TO DEBTOR'S DISCLOSURE STATEMENT**

[Dkt. # 178]

Warehouse 86, LLC ("Debtor" or "Warehouse 86"), through its attorneys, files this Response to the Objection of Keith Martin Mack (Dkt. # 178) to the Disclosure Statement for the Debtor's Chapter 11 Plan, and presents to the Court the following:

1. The objections filed by Keith Martin Mack ("Mack") relate primarily to confirmation issues for the Debtor's plan, rather than to the Disclosure Statement, and therefore should be denied.

2. The "objection to discharge" requested by Mack should be denied because it was not properly asserted, and it is not before this Court on the Debtor's Motion to approve its Disclosure Statement.

3. The Debtor denies that Mack is entitled to an allowed claim in the amount of \$638,219.93, or any amount whatsoever against it.

4. Furthermore, the Debtor intends to institute a contempt action against Mack for Mack's violation of the automatic stay by the continuation of actions against the Debtor in a judicial proceeding Mack had filed in the Superior Court of the State of Arizona for the County of Maricopa, Case No. CV2008-070196 (the "Lawsuit"). After being notified of the Debtor's chapter 11 bankruptcy filing, Mack filed an Application for Default in the Lawsuit. Mack failed

to withdraw the application for default after having been advised that it was filed in violation of the automatic stay.

5. Debtor denies each and every allegation set forth by Mack pertaining to his claim against the Debtor, and would further show this Court that an objection to the Debtor's Disclosure Statement is not the proper forum for Mack to assert those claims. Rather, the Debtor will shortly file an objection to the claim filed by Mack, and this Court can adjudicate the merits of Mack's claim at that time and in that contested matter.

6. Any and all allegations of Mack pertaining to his "objection to discharge" or exception to dischargeability are denied. Furthermore, such allegations are wholly inappropriate and irrelevant in an objection to a disclosure statement.

7. The Debtor objects to the "Proposed Modifications" sought by Mack on the grounds that such "modifications" are inaccurate and misleading and do not properly relate to the adequacy and sufficiency of the Debtor's Disclosure Statement.

8. The Debtor denies that its assets should be held in escrow pending an adjudication of Mack's claims against the Debtor for actual and punitive damages.

9. The Debtor denies that an objection to a disclosure statement is the proper forum for determining whether the claim of Mack should be allowed.

10. The Debtor denies that a trustee should be appointed in this case to determine whether a ground exists for a denial of discharge as to the claim of Mack.

WHEREFORE, the Debtor respectfully requests that this Court deny the objections of Mack and approve its Disclosure Statement, and will grant it such other and further relief as this Court deems just and proper.

Dated: August 25, 2009.

Respectfully submitted,

WAREHOUSE 86, LLC

By: s/Stephen W. Rosenblatt

STEPHEN W. ROSENBLATT (MB # 5676)

PAUL M. ELLIS (MB # 102259)

Its Attorneys

CERTIFICATE OF SERVICE

I, Stephen W. Rosenblatt, certify that I have this date served, via either electronic filing transmission or United States mail, postage prepaid, a true and correct copy of the above and foregoing pleading to the following persons:

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THIS, the 25th day of August, 2009.

s/ Stephen W. Rosenblatt

Stephen W. Rosenblatt

Jackson 4308081v1